

1 MANATT, PHELPS & PHILLIPS, LLP
2 GREGORY N. PIMSTONE (BAR NO. CA 150203)
3 ANDREW L. SATENBERG (BAR NO. CA 174840)
4 TRAVIS A. CORDER (BAR NO. CA PENDING)
5 11355 West Olympic Boulevard
6 Los Angeles, CA 90064-1614
7 Telephone: (310) 312-4000
8 Facsimile: (310) 312-4224

9 Attorneys for Defendant
10 California Physicians' Service,
11 dba Blue Shield Of California

12
13
14 IN THE UNITED STATES DISTRICT COURT FOR THE
15 NORTHERN DISTRICT OF CALIFORNIA

16 RICHARD P. WELLS, For Himself And
17 In His Representative Capacity As
18 Administrator of the Estate of Marilyn
19 Wells, Decedent, and As Guardian of His
20 Minor Children,

21 Plaintiff,

22 vs.

23 CALIFORNIA PHYSICIANS' SERVICE,
24 dba BLUE SHIELD OF CALIFORNIA,

25 Defendants.

26 Case No. C 05 1229 CRB

27 **STIPULATION TO CONTINUE CASE
28 MANAGEMENT CONFERENCE AND FRCP
29 26 SCHEDULE; [PROPOSED] ORDER
30 THEREON**

1 WHEREAS, a Case Management Conference in the above-captioned matter is currently
2 set for October 7, 2005.

3 WHEREAS, September 23, 2005 is currently the parties' last court day to file the required
4 joint case management statement.

5 WHEREAS, pursuant to Fed. R. Civ. P. 26(f), September 30, 2005 is currently the parties'
6 deadline for the submission of initial disclosures and the case discovery plan.

7 WHEREAS, on July 19, 2005, Defendant, California Physicians' Service, dba Blue Shield
8 of California ("Blue Shield"), filed a Notice of Motion to Dismiss and Notice of Motion to Strike
9 with respect to the Plaintiff's First Amended Complaint ("FAC"), which may resolve some, if not
10 all, of the issues raised in the FAC.

11 WHEREAS, the hearing on Defendant's motions was previously scheduled for August 26,
12 2005.

13 WHEREAS, on August 3, 2005, the parties filed a stipulation (and proposed order)
14 (Docket No. 23)that the time for Plaintiff to oppose Defendant's motions would be extended until
15 August 26, 2005; that the time for Defendant's reply to Plaintiff's opposition would be extended
16 to September 16, 2005; and agreeing among themselves and requesting that the date for the
17 hearing upon Defendant's motions be extended from August 26, 2005 to October 7, 2005.

18 WHEREAS, pursuant to the August 5, 2005 Order of this Court (Docket No. 24), the
19 hearing upon Defendant's motions is now set for October 7, 2005.

20 WHEREAS, the parties believe that good cause exists for a forty-five (45) day
21 continuance of the Case Management Conference beyond its presently scheduled October 7, 2005
22 date, in that a continuance will serve the interests of judicial economy by offering an opportunity
23 for Blue Shield's Motion to Dismiss and Motion to Strike to be heard prior to the Case
24 Management Conference, thus clarifying and perhaps limiting the issues that remain in dispute in
25 advance of the Case Management Conference.

26 WHEREAS, the parties believe that good cause exists for a forty-five (45) day
27 continuance of the deadline for submission of discovery plan and initial disclosures pursuant to
28 Fed. R. Civ. P. 26(f) beyond the present September 30, 2005 deadline, because a continuance will

1 serve the interests of judicial economy and will clarify and limit the scope of discovery by
2 offering an opportunity for Blue Shield's Motion to Dismiss and Motion to Strike to be heard
3 prior to the triggering of the parties' respective Rule 26(f) duties, thus clarifying the issues that
4 remain in dispute in advance of the commencement of discovery.

5 NOW, THEREFORE, IT IS HEREBY STIPULATED and agreed by Plaintiff and
6 Defendant, through their respective attorneys of record, that:

7 1. The Case Management Conference in this action, currently set for October 7, 2005, be
8 continued for a period of approximately 45 days, to November 18, 2005, at 8:30 a.m., or as soon
9 thereafter as the Court may deem appropriate.

10 2. The deadline for initial disclosures and submission of discovery plan, pursuant to Fed.
11 R. Civ. P. 26(f), which is currently September 30, 2005, be continued for a period of
12 approximately 45 days, to November 11, 2005, or as soon thereafter as the Court may deem
13 appropriate.

14 Plaintiff and Defendant further stipulate and agree that this Stipulation may be e-filed or
15 signed in counterparts, and facsimile signatures shall have the same force and effect as originals.

16 This request is not being made for the purposes of delay.

17 Plaintiff and Defendant jointly request that the Court enter an order in conformance with
18 their stipulation (see attached proposed order).

19 IT IS SO STIPULATED.

20 Dated August 22, 2005

Dated August 22, 2005

21 MANATT, PHELPS & PHILLIPS, LLP
22 GREGORY N. PIMSTONE
ANDREW L. SATENBERG

BENJAMIN FRANKLIN LEGAL
FOUNDATION

23 By: s/ Andrew L. Satenberg
24 Andrew L. Satenberg
25 *Attorneys for Defendant*
CALIFORNIA PHYSICIANS' SERVICE,
dba BLUE SHIELD OF CALIFORNIA

23 By: s/ James B. Rhoads
24 James B. Rhoads
25 *Attorney for Plaintiff*
RICHARD P. WELLS

27
28 *Filer's Attestation: Pursuant to General Order No. 45, Section X(B) regarding signatures, Andrew L.
Satenberg hereby attests that concurrence in the filing of this document has been obtained.*

ORDER

Having reviewed the Stipulation of the parties, and good cause appearing:

IT IS HEREBY ORDERED THAT

1. The Case Management Conference in this action, currently set for October 7, 2005, be continued to November 18, 2005 at 8:30 a.m; and
2. The deadline for submission of discovery plan and initial disclosures pursuant to Fed. R. Civ. P. 26, currently September 30, 2005, be continued to November 1, 2005.

Date: August 23, 2005

40908918.1

